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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Montserrat

Working paper prepared by the Secretariat

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I. General

1. Montserrat[1] is situated in the Leeward Islands in the eastern Caribbean, 43 kilometres south-west of Antigua and 64 kilometres north-west of the French Overseas Department of Guadeloupe. The island covers an area of 103 square kilometres, all of which is volcanic and mountainous. Its coastline is rugged and there is no all-weather harbour.[2]

2. Montserrat was named after a Spanish monastery by Christopher Columbus on his second trip to the island in 1493. In 1632, the island became a British colony, and its first settlers came mainly from Ireland. Slaves, who worked the cotton, sugar and tobacco plantations, were unsuccessful in an uprising in 1768. Although Montserrat was occupied by France for brief periods of time, it returned definitively to British rule in 1783. Montserrat became a British Crown Colony in 1871.

3. In July 1995, the Montsoufriere volcano, dormant for more than 400 years, erupted and caused the evacuation of population from the southern part of the island to its northern "safe" areas. Montserrat's capital, Plymouth, was abandoned after the increase in volcanic activity in 1996. The temporary capital is now located in Brades and a new capital is being planned in Little Bay, which is situated on the north-east coast of the island.

4. The population of Montserrat was 10,581 in 1995. By 1998, it was reduced to 3,500. In 1999, the population was estimated to be 4,600, and in 2002 approximately 4,300.

II. Constitutional, political and legal issues

5. Montserrat is a Non-Self-Governing Territory of the United Kingdom of Great Britain and Northern Ireland. The Montserrat Constitution Order came into force in 1990. It provides for a Governor appointed by the Queen; an Executive Council comprising the Governor as President, the Chief Minister, three ministers and two ex officio members (the Attorney General and the Financial Secretary); and a Legislative Council, comprising a Speaker, two ex officio members (the Attorney General and the Financial Secretary), seven elected members returned from single-member constituencies on the basis of universal adult suffrage and two nominated members. Elections are held every five years on the basis of universal adult suffrage. Since the eruption of the Montsoufriere volcano, the entire island has been considered to be one electoral constituency. Nine at-large members are elected in two rounds of voting. The new Assembly does not include any nominated members. The next election is due to be held in early 2006.

6. As was reported in last year's working paper (A/AC.109/2003/2, para. 9), the new electoral system has established a qualifying pre-poll residence period of 36 months which caused some displeasure among the Montserratians living and working abroad.

7. Ministerial responsibilities cover all areas of government business, including finance. While the Governor retains responsibilities for external affairs, internal security, defence, the pubic service and offshore financial services, he is expected to act on the advice of the Ministers.

8. The current Governor of Montserrat, Tony Longrigg, has been in office since May 2001. The Chief Minister, John Osborne, took office in April 2001. The main political parties are the New People's Liberation Movement (NPLM) and the National Progressive Party (NPP).

9. In July 2003, the new Governor of Montserrat was approved by the United Kingdom to take office in April 2004 following the retirement of the present Governor from the British Diplomatic Service. Mrs. Deborah Barnes-Jones will be the first female Governor of a British Overseas Territory.[3]

10. As was reported in last year's working paper (A/AC.109/2003/2, para. 5), in 2002 a Constitutional Review Committee was appointed to review the Constitution. In March 2003, the Constitutional Review Commissioners released a report, which recommended, among other changes in the current Constitution, that the Chief Minister of the Territory be invited to examine short-listed candidates for the position of Governor and make a reasoned recommendation, thus participating in the selection process. The report recorded a minority view that the Chief Minister could not do that effectively since he did not know the candidates. Nevertheless, the report concluded that the proposed change from the imposition of the candidate by the United Kingdom to cooperative action in choosing a Governor would have a symbolic significance. In addition, the report registered the opinion that a candidate for Governor should have stipulated qualities and capabilities, namely that such a person should have some understanding of Caribbean and Montserrat culture, as well as have some skills in the area of development planning.[4]

11. According to information provided by the administering Power, during the discussion of the constitutional review process in the Territories and the role of Governors at the Overseas Territories Council meeting in December 2003, in response to the intention by the Foreign and Commonwealth Office to arrange talks with Governors and the Opposition in London on the proposed changes in the Constitutions of all Territories, the Chief Minister of Montserrat remarked that in Montserrat constitutional change was not a party political matter. He said that he had established a bipartisan Committee under the chairmanship of the leader of the Opposition to consider Montserrat's Constitutional report.

12. The report of the Constitutional Review Commission also suggested that Montserrat and the United Kingdom should develop some arrangement that would allow the Territory to trade in international markets without the approval of the United Kingdom. The dependent status of Montserrat should not impede its ability to engage in such trade, and provision to allow it should be included in the Constitution.

13. In addition, the report stated that the dependent status of Montserrat should not prevent it from benefiting from certain international arrangements and conventions, since the Territory is part of the global community. For example, under the Kyoto Protocol on climate change (1997), industrialized countries which cannot meet established targets for reducing the greenhouse effect might buy emission credits or invest in energy conservation using the Kyoto mechanism. While independent Caribbean countries, signatories to the Protocol, can sell their "extra" credits to the developed countries, Montserrat is excluded from this process. At the same time, the United Kingdom is expected to fund such emission credits from corporate taxes.[5]

14. The law of the Territory is English common law together with locally enacted legislation. It is administered by the Eastern Caribbean Supreme Court. The Royal Montserrat Police Force is funded by the technical cooperation programme.

15. During his October 2003 visit to London, the Chief Minister of the Territory asked the United Kingdom for permission to join the other members of the Caribbean Community (CARICOM) in establishing a regional Appellate Court and a Single Market and Economy (see also para. 49 below). Currently, Montserrat is the only member of that regional organization that has not signed the relevant protocols. CARICOM plans to establish a single market by 2005 when member countries are to lift trade barriers under the Free Trade Area of the Americas. The Caribbean Court of Justice is considered to be essential for resolving regional trade disputes. It is supposed to begin working in 2004 and would replace the London-based Privy Council as the highest appeals court for many English speaking Caribbean countries. According to the Governor of the Territory, the United Kingdom has no intention of holding the integration process in the Caribbean. At the same time, there are still some legal issues to be resolved between Montserrat and the United Kingdom before the Territory can become fully subject to the Caribbean Court. This discussion takes place against the background of the British Government urging Montserrat to become more self-sufficient as the United Kingdom reduces its yearly subsidies to the Territory.[6]

III. Status of the Montsoufriere volcano

16. The Montserrat Volcano Observatory was established after the eruption of the Montsoufriere volcano in 1995 and became a statutory body of the Government of Montserrat in 1999. Funded mainly through the United Kingdom Department for International Development (DFID), its role is to advise civilian authorities on the volcanic activity and associated hazards. Contrary to the initial prognosis, the volcanic eruptions were repeated in 2000, 2002 and 2003.

17. On 12 July 2003, the Soufriere Hills volcano erupted again. A series of volcanic explosions took place on 12 and 13 July, which sent ash up to 40,000 feet in the air. Part of the volcano's dome collapsed and the roads were covered with two inches of mud. The dome collapse also caused major ash fallout of up to 6 inches. This eruption forced the closure of airports in the neighbouring countries. Large airlines, including Continental Airlines, American Airlines, Air France and US Airways, had to cancel flights into nearby St. Martin. Several flights were stranded and had to be diverted to the British Virgin Islands, the United States Virgin Islands and to Puerto Rico.[7]

18. The volcanic ash from the latest eruption, the largest since 1995, carried by strong winds covered the neighbouring islands of Saint Kitts and Nevis, Antigua, Dutch and French St. Martin, St. Barths, Anguilla and the British and United States Virgin Islands.[8]

19. Although the roofs of several business facilities collapsed under the weight of the ash accompanied by rain showers, there were no major injuries or loss of life. However, the eruption caused temporary disruption of electricity and water supplies. The damage to the water sector was estimated at over half a million dollars due to loss of some vital equipment. According to the Manager of the Water Authority, the water supply reached a critical level after the eruption, and it was necessary to

introduce a water-rationing programme. Ash from the volcano covered and incapacitated 80 per cent of domestic water meters in the Territory. As a result of the eruption, spring catchment areas producing water required considerable cleaning to minimize contamination, which, in turn, required the use of additional labour. An additional standby generator system was also needed at the pump station.

20. In the aftermath of the July eruption, CARICOM extended an offer to assist the Government and the people of Montserrat. Following the declaration of the Territory as a disaster area, CARICOM received from the Caribbean Disaster Emergency Response Agency a situation report advising of the extent of the damage assistance required.[9]

21. In October 2003 the Governor of Montserrat announced $5.9 million in British aid.

IV. Economic conditions

A. General

22. Volcanic activity and hurricane damage have combined to seriously undermine Montserrat's economic development and have implications for its future planning. As efforts to rebuild the economy continue, economic activity centres on reconstruction, which is largely funded through DFID.

23. During the reporting period, the Government of the Territory continued efforts to solicit support and assistance to Montserrat from various sources. In August 2003, the Chief Minister visited Britain, where he had meetings with British officials, including representatives of DFID. He also had talks with a European investment group which had an interest in setting up a water bottling plant in the Territory. In addition, he met with members of Montserrat communities living in Britain.[10]

24. As was reported in last year's working paper (A/AC.109/2003/2, paras. 17-26), the analytical study conducted by the University of the West Indies, entitled "The challenges of achieving development in a micro state: The case of Montserrat 1995-2001",[11] concluded that Montserrat's economy continued to experience a debilitating shock to its development since 1995. The study identified as major challenges: limited financial resources; external decision-making; population size; limited development prospects; lack of natural resources; and lack of key infrastructure.

25. In August 2003, following the eruption of the volcano, *The Economist* published an article which questioned whether Montserrat was an economically viable Territory. Since the southern two thirds of Montserrat remain a "no-go" zone, most Montserratians were evacuated and now live in nearby islands or in the United Kingdom. According to the article, the 4,300 people cling on in a "safe zone" of about six miles by five miles. The United Kingdom has spent more than £180 million ($290 million) keeping them there. There is a subsidized helicopter service and ferry to Antigua.

26. Everything has been built anew: schools, hospital, power supply, and now a port, airport, and 20-cell prison. In July, the volcano spewed a cloud of ash nine miles high, and dumped rocks as big as golf balls on to roofs and gardens. Dealing with this has cost another $2.4 million.

B. Budget

27. According to the information provided by the administering Power, the total revenue for 2003 is $69,801,570. This includes local revenue of $28,242,200 and special grants of $41,559,370. The expenditure for 2003 totalled $69,801,570.

C. Banking and finance

28. As was reported in last year's working paper (A/AC.109/2003/2, paras. 31-32), Montserrat has a small offshore financial centre. In March 2002, the Organisation for Economic Cooperation and Development (OECD) announced that it had removed Montserrat from its list of tax havens as the Territory had made a commitment to transparency and effective exchange of information on tax matters with OECD countries by the end of 2005.[12]

D. Tourism

29. During the reporting period, the tourist industry of Montserrat continued to be affected by the unfavourable conditions created by the eruption of the Montsoufriere volcano and subsequent destruction of infrastructure and accommodations. The Government continued efforts to keep the industry alive and developed plans for its reconstruction and expansion.

30. Despite the major eruption of the volcano in July 2003, the Government of Montserrat announced that there were no restrictions on visitors, but cautioned individuals with asthma and respiratory problem. The Montserrat Tourist Board and Montserrat Aviation Service were instructed to inform visitors along the same lines. A similar travel advisory was issued by the British Foreign and Commonwealth Office.[13]

31. In October 2003, it was announced that the British Government allocated EC$ 9 million for the local tourist industry in recognition of the fact that tourism was critical for the future of Montserrat and that the prospects for reviving tourism were good.[14]

32. According to the Tourism Director, it is understandable that for the time being tourists were unlikely to stay on the island for their full holiday, but the Territory had potential as a stopover destination. The Government intends to promote Montserrat to the excursion market and for short stopovers of two or three nights. It hopes that the opening of a new airport that is scheduled for October 2004 will attract flights and open up links with more islands including Saint Kitts, Nevis and Antigua.[15]

E. Construction and infrastructure

33. As was reported in last year's working paper (A/AC.109/2003/2, paras. 42-43), following the eruption of the volcano and the destruction of the capital and most habitable areas, the Government continued efforts to rebuild housing and infrastructure. During the reporting period, the Government in cooperation with DFID continued efforts to accommodate those residents who had been displaced by the volcano eruption. In August 2003, the second phase of a housing project started. The project, called Lookout Phase II Infrastructure Development, aims at constructing quality facilities for more than 120 residential and commercial lots. The implementation of the Lookout Phase II project will facilitate the provision of permanent housing to some 25 per cent of persons in need. The first stage includes releasing 80 lots and construction of a road, sewage system and waste stabilizing ponds. The Government plans to complete this phase within 15 months.[16]

34. With respect to the airport construction, in July 2003, the Chief Minister signed a contract with an Irish company to construct the runway at Gerald's, in the north of the island. The airport project is financed by the European Union and DFID at a cost of EC$ 42.6 million (US$ 16 million). The cost includes the construction of a 600-metre runway and an access road to Gerald's. Construction of the new terminal building by the local firm Ryan Investments Ltd. is nearing completion. The project is due to be completed in September 2004.

35. Montserrat has been without an airport since the closure of W. H. Bramble Airport in June 1997 following a volcanic eruption, which destroyed the terminal and other airport buildings. Currently, the only means of transport in and out of the island is by ferry or helicopter.[17]

36. In October 2003, the Eastern Caribbean Central Bank reported that construction activities contracted in Montserrat in 2003 compared to the previous year.[18]

F. Agriculture and fisheries

37. As was reported in last year's working paper (A/AC.109/2003/2, para. 35) the Territory's agriculture suffered not only from the 1995 and subsequent volcano eruptions, but also from a prolonged dry spell in 2001.

38. While no injury or loss of life has been reported during the latest eruption of the Soufriere Hills volcano in July 2003, that eruption, which has been described as the largest to have occurred in the Territory since the volcano came back to life in 1995, brought a severe blow to crop farmers, who have been hardest hit, according to Agriculture Ministry officials. The damage to agriculture is expected to run into millions rather than hundreds of thousands of dollars. In the aftermath of the eruption, the Minister of Agriculture held a series of meetings with major stakeholders. According to the Minister, the estimated value of lost crops, horticulture, environment, fisheries and livestock was over $374,531. This figure does not include damage to feeder roads, shade structures and other agricultural inputs. It is estimated that 95 per cent of all food crops, including fruit trees and seedlings were either damaged or destroyed. With respect to animal feed, livestock farmers had to cut soft trees to feed the animals. In order to assist the farmers, the

East Caribbean Group of Companies from Saint Vincent donated 500 bags of animal feed to livestock farmers, while 4,000 bags of feed have been ordered.[19]

39. The farmers who had no insurance requested assistance from the Government, and in August 2003, the Government announced financial aid to farmers whose produce was wiped out by heavy ash fall. The Executive Council decided to provide undisclosed one-off payment to the farmers. At the same time, the Government launched two projects to assist the farmers to get their produce to the markets.[20]

40. After the eruption of the volcano in July 2003, in order to alleviate the situation caused by loss of crops, the Government of Montserrat ordered a relaxation of the import restrictions on many essential commodities, such as eggs, meat and fresh vegetables.[21]

V. Social conditions

A. Education

41. As was reported in last year's working paper, the Government of Montserrat continued to rebuild its educational system in the safe northern part of the island (A/AC.109/2003/2, paras. 36-38). During the reporting period, it continued efforts to promote adult education in the Territory. In July 2003, the Government signed an agreement with the Atlanta Central University and Seoul Central College of Medicine (Georgia, United States of America) to establish a medical school in the Territory. The first semester started on August 2003 with 20 students. Under the agreement the University will provide scholarships to Montserrat students, as well as medical care to citizens. The terms of agreement also stipulate that the University will present to the Government plans for accommodation of students and staff.[22]

B. Health

42. According to the World Health Organization (WHO), a health project developed by the Government of the United Kingdom, with technical assistance provided by the Pan American Health Organization (PAHO), aims to rebuild the health services in Montserrat to the pre-volcanic level. Community health clinics, providing free services for Montserratians, are in operation in the safe zone at three locations: St. Peter's, Cudjoe Head and St. John's. In addition, there are two private medical practitioners and one private dental practitioner on the island. St. John's Hospital was refurbished in 1999 and now has 30 beds, places for 50 elderly persons, a new pharmacy, a laboratory and medical records facilities, and new casualty, X-ray and outpatient departments, and a secure facility for psychiatric patients. Some services that are not available in the Territory on a full-time basis are procured through ongoing arrangement with visiting specialists.

43. After the volcano eruption on 12 July 2003, which was accompanied by huge amounts of dust and ash, the Chief Medical Officer of the Territory addressed the population recommending the wearing of dust masks, especially during the clean-up. A request for 50,000 masks was forwarded to the International Donor Group, which also included respirators, fire hoses, industrial vacuums, high-pressure pumps, water

tanks, mobile tanks and animal feed. The assistance was channelled through the Caribbean Disaster Emergency Response Agency and PAHO.[23]

44. In the aftermath of the recent eruption, the fine-grained character of the volcanic ash generated by the prolonged eruption of the volcano raised the issue of its possible health hazards, which was discussed by the scientific community.[24]

VI. United Kingdom development assistance

45. As was reported in the 2003 working paper (A/AC.109/2003/2, para. 53), the United Kingdom Government provides assistance to Montserrat to establish basic infrastructure in the safe northern part of the island. DFID has earmarked £72 million between 2002 and 2005/06 for projects within the country policy plan.

46. According to the information provided by the administering Power, during the Overseas Territories Council meeting in London in December 2003, the Chief Minister said that his Territory did not have the means to upgrade its maritime security and asked what assistance would be available. The FCO Official responded that the aviation security adviser based in Miami, would be able to advise on both aviation and maritime security to the Territory. The Chief Minister also reported that the Territory was unable to police its territorial water and was thereby unable to prevent illegal fishing in their waters. He complained that the new patrol boat provided by the United Kingdom was totally inadequate and had no protection against even a single bullet.

VII. Relations with international organizations and entities

47. The Territory continues to be a member of CARICOM and the Organization of Eastern Caribbean States (OECS), as well as the institutions associated with both groups, including the University of the West Indies, CDB and the Eastern Caribbean Central Bank. Montserrat is an associate member of the Economic Commission for Latin America and the Caribbean (ECLAC) and its subsidiary bodies. The Territory is represented at the meetings of the Caribbean Group for Cooperation in Economic Development, sponsored by the World Bank. As was reported in the 2003 working paper (A/AC.109/2003/2, para. 58), Montserrat intended to sign the treaty with the CARICOM Single Market and Economy, which will bring a closer integration between the 15 States members of CARICOM.

48. During the reporting period, Montserrat was actively involved in the process of integration of the Caribbean subregion and the creation of the Caribbean common market. In April 2003, the Chief Minister participated in the Eastern Caribbean Summit, which focused on the modalities of economic integration and the preparation of a common passport.[25]

49. During his October 2003 visit to London, the Chief Minister of the Territory asked the United Kingdom for permission to join the other members of CARICOM in establishing a regional Appellate Court and a Single Market and Economy (see para. 15 above).[26]

50. By the end of the meeting, the British Government formally backed the Territory's plans to participate in the Caribbean Court of Justice and the CARICOM

Single Market and Economy. It was agreed by Montserrat and the representatives of the CARICOM secretariat that the Territory would need to avail itself of special treatment to minimize any short-term adverse impact from participating in the CARICOM Single Market and Economy.[27]

51. According to the information provided by the administering Power, during the discussion of membership by the Territories in Regional Organizations, at the Fifth Overseas Territories Consultative Council in December 2003, the Chief Minister of Montserrat said that such a membership was linked to self-determination. He set out the background to the establishment of CARICOM and OECS, of which Montserrat had been a founding member. Montserrat had received letters of entrustment to sign seven of the nine protocols for CARICOM's Single Market and Economy and was awaiting a letter of entrustment from the United Kingdom. According to the Chief Minister, Montserrat would benefit from membership through access to services and goods at lower costs, as well as access to the Caribbean institutions such as the Caribbean Development Bank and the University of the West Indies. The Chief Minister maintained that the Caribbean Territories lacked resources, critical mass, technical capacity and economic diversity. If the United Kingdom as administering Power could not accept this, it would have to put in place a mechanism to respond to the Territory's economic collapse.

52. During the same meeting, the Parliamentary Under Secretary of State accepted that participation in Caribbean regional organizations could be beneficial for the relevant Territories, but some proposals for closer regional integration could involve significant cost (and legal considerations), which would have to be weighed carefully. Montserrat's request to join the CARICOM Single Market and Economy had legal and short- to medium-term cost implications for Montserrat's aid programme which, given Montserrat's budgetary aid position, DFID Ministers quite rightly wished to consider. Consultants had suggested that the costs to Montserrat for participation could be up to £1 million a year over the next five years. The Under Secretary stated that the United Kingdom had no difficulty with the existing practice that Territory Ministers represented their Territory in Caribbean regional organizations but, given the Governor's constitutional responsibility for external affairs, the Governor should be kept fully informed and in advance of any item for which the British Government was directly responsible. The British Government should be consulted at the earliest possible stage if the Territories were beginning to negotiate or considering the signing of any international agreement. The United Kingdom was ultimately responsible for the international obligations of the Overseas Territories. Entrustment had to be sought in every instance.

VIII. Future status of the Territory

A. Position of the territorial Government

53. During the discussion on the distribution of powers and responsibilities between the Governors and the elected officials of the Territories, at the Fifth Overseas Territories Consultative Council in December 2003, the Chief Minister of Montserrat agreed with the representatives of other Territories that without a reduction in the Governor's powers, it would not be possible to develop. Montserrat was grateful for the assistance received from the United Kingdom, but an

arrangement where responsibility for the civil service and police rested with the Governor rather than with independent public and judicial service commissions gave the Territories no opportunity to prepare for eventual independence. The Chief Minister had to have a say in the appointment of the Commissioner of Police. Montserrat had no real problems with the relationship with the United Kingdom, but the Chief Minister sympathized with the colleagues who felt that too many matters were imposed upon them from London.

B. Position of the administering Power

54. In his statement at the 2nd meeting of the Fourth Committee on 6 October 2003 at the fifty-eighth session of the General Assembly (see A/C.4/58/SR.2), the representative of the United Kingdom said that his Government welcomed the opportunity, as an administering Power to bring the Committee's attention to a number of significant developments that had taken place during the year. Following the adoption in 2002 of the British Overseas Territories Act, which granted all citizens of those Territories full British citizenship, the right of abode in the United Kingdom and freedom of movement within the European Union, over 14,000 passports had been issued by August 2003. As for environmental management in the Overseas Territories, his Government was working closely with the Territories in order to fulfil the commitments it had entered into under multilateral agreements and to support the efforts of the Territories themselves to protect and improve their environment.

55. With respect to the constitutional reviews, discussions were under way in the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat and the Turks and Caicos Islands. The authorities of Anguilla had set up a Committee to canvass views from the population at large and a locally appointed Review Commission was expected to be established shortly in the British Virgin Islands. Talks with St. Helena had also started and were the furthest advanced, whereas discussions with Gibraltar had yet to commence. In terms of the Committee's specific interests, two years into the United Nations Second International Decade of Decolonization, perhaps the most significant development had been the decolonization seminar which had been held in Anguilla, from 20 to 22 May 2003, since it was the first time that the seminar had been held in a British Non-Self-Governing Territory. The choice of venue and the focus of the seminar had meant that several chief ministers and their equivalents, as well as opposition leaders and civil society representatives, had been able to attend. The representative of the United Kingdom said that the seminar had shown the extent to which many of the British Overseas Territories had dynamic and advanced economies, which already benefited from a high degree of self-government.

56. As seen from London he said, the United Kingdom had the impression that there was no strong desire in its Territories to choose the path of independence, even though his Government had made it clear that it would give every encouragement if they chose to do so, where independence was an option. The key, therefore, as long as the Territories chose to retain their link with the United Kingdom, would be to try to reconcile their desire for ever-greater autonomy and self-government with the United Kingdom's responsibility to ensure good governance, protect the impartiality of the public service and the independence of the judiciary, and to ensure compliance with relevant international obligations.

57. In his closing remarks during the Overseas Territories Consultative Council held in London from 8 to 10 December 2003, referring to the role of the Governors and constitutional reform, the Parliamentary Under Secretary of State said that it was based on the principle of partnership. According to the Under Secretary, the concept of free association advanced by the United Nations Special Committee of 24 would not be inconsistent with that, if it meant mutual acceptance by both sides, because the United Kingdom Government had responsibilities to protect. But if it meant, as he sensed some Territory governments were arguing, that some Territories would draw their own constitutions free of outside interference, the United Kingdom would not agree with that. The Under Secretary went on to add that his Government valued its relationship with the Territories. It would not wish to force them into independence, although it would respond positively, where that would be an option (i.e., not Gibraltar) if that was the clear and constitutionally expressed wish of the people. The United Kingdom respected the fact that for some Territories that might be the long-term objective. He stressed, however, that while the Territories retained a link with the United Kingdom, their governance should be in partnership with it.[28]

IX. Consideration by the General Assembly

58. On 9 December 2003, the General Assembly adopted resolutions 58/108 A and B, without a vote; section III of resolution 58/108 B is specifically devoted to Montserrat.

Notes

[1] The information contained in the present paper has been derived from published reports and information available on the Internet. The facts and figures presented in the working paper are the latest information available.

[2] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", United Kingdom White Paper, March 1999 (A/AC.109/1999/1 and Corr.1, annex).

[3] BBC Monitoring Americas, 2 July 2003.

[4] *St. Helena Herald*, 25 April 2003.

[5] *The Island Sun*, 29 March 2003.

[6] *The Royal Gazette*, 16 October 2003.

[7] *Caribbean Insight*, 1 August 2003, vol. 26, No. 27.

[8] BBC Monitoring Americas, 13, 14 July 2003.

[9] Ibid., 18 July 2003.

[10] Ibid., 12 August 2003.

[11] Information provided by the administering Power.

[12] Agence France-Presse, 7 March 2002.

[13] *The Montserrat Reporter*, 3 July 2003.

[14] *Caribbean Insight*, 17 October 2003, vol. 26, No. 36.

[15] *The Travel Trade Gazette* (U. K. and Ireland) Tonbridge: 15 December 2003, p. 42.

[16] BBC Monitoring Americas, 27 August 2003.

[17] BBC Monitoring Americas, London, 12 August 2003.

[18] BBC Monitoring Americas, 24 October 2003.

[19] BBC Monitoring Americas — Political, London, 26 July 2003.

[20] *The Island Sun*, 30 August 2003.

[21] *The Montserrat Reporter*, 3 July 2003.

[22] Ibid., 18 July 2003.

[23] Ibid., 3 July 2003.

[24] Environmental Research H. W. Wilson-ASI, October 2003, vol. 93, p. 202.

[25] BBC Monitoring Americas, 28 April 2003.

[26] *The Royal Gazette*, 16 October 2003.

[27] *Caribbean Insight*, 17 October 2003, vol. 26, No. 36.

[28] The Fifth Overseas Territories Consultative Council, Report of the Proceedings, 8-10 December 2003, Annex F, Closing Remarks by Mr. Rammell.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Bermuda

Working paper prepared by the Secretariat

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I. Background information

1. Bermuda[1] is located in the western part of the Atlantic Ocean, about 917 kilometres east of the North Carolina coast of the United States of America. The Territory consists of 8 major islands and 130 smaller islands. The largest is Great Island, or Main Island. Hamilton, the capital, and St. George's are the two main towns.

2. Until recently, it was considered that Bermuda was discovered in 1503. Local historians now believe the Spanish navigator Juan de Bermúdez first spotted Bermuda in 1505. On the basis of the new historical evidence, the celebrations marking the 500th anniversary of the discovery of Bermuda, which had initially been scheduled for 2003, will be held in 2005.[2] In 1609, Bermuda was settled by a group of English colonists and in 1610, the first slaves were brought to work on the farms and to dive for pearls. In 1620, the first Parliament was held after the Crown granted the colony limited self-government. In 1968, Bermuda was granted internal self-government and a new Constitution. In 1995, a referendum was held on the question of independence. Of the 58.8 per cent of eligible voters who participated, which is a small number by Bermudian standards, 73.6 per cent voted against independence.

3. According to the 2000 census, Bermuda's population has grown by 6 per cent to 62,098 since the last census in 1991. The number of foreign-born inhabitants grew by 12 per cent and represented around 30 per cent of the population. The work force grew to 36,878, an 11 per cent rise over the decade. The inhabitants of African descent constituted 60 per cent of the population, while 40 per cent was of North American or European descent. The Territory is very densely populated (1,180 inhabitants per square kilometre). It is also on the list of countries with the highest urban population, as 100 per cent of its population lives in urban areas.

II. Constitutional, political and legal issues

4. Bermuda is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Constitution of Bermuda, adopted in 1968 and amended in 1973, 1979 and 1989, contains provisions relating to the protection of fundamental rights and freedoms of the individual. The Governor is appointed by the Queen and the Government of the United Kingdom, after consultations with the Prime Minister. The Governor is responsible for defence, external affairs, internal security and the police. Bermuda has a parliamentary system of government. The Government of Bermuda comprises a Governor, a Deputy Governor, a Cabinet and a bicameral legislature with a House of Assembly of 36 members directly elected for a five-year term and a Senate of 11 appointed members. Five members of the Senate are appointed by the Governor, on the advice of the Prime Minister, three on the advice of the leader of the opposition and three by the Governor at his discretion. The Territory maintains a 700-strong Defence Regiment; the adult male population is subject to military conscription, involving three years' part-time liability for weekly drills and an annual camp. It has a police force of approximately 450 full-time officers and several hundred part-time police reserves. The Governor of Bermuda, John Vereker, took office in April 2002.

5. Bermuda's law and legal system are based on English common law and principles of equity, English statute law in force since 1612 and Acts of the Bermuda Parliament passed since then. The judiciary is a separate body from the Government and its members are not elected but appointed on the advice of the Chief Justice. There are three courts presiding in Bermuda, namely, the Magistrates' Court, the Supreme Court and the Court of Appeal.

6. There are three main political parties in the Territory. The Progressive Labour Party (PLP) was the first party to be formed by the black population of Bermuda in 1963 to gain representation and power in a white-controlled political and economic system. The United Bermuda Party (UBP) was formed in 1964 by whites opposed to PLP policies. The National Liberal Party (NLP) seeks a middle ground. The Prime Minister is chosen from the majority party and heads a Cabinet of no more than 14 members of the legislature.

7. Bermuda voters in the elections or referendums must be 18 years of age. They must be Bermudian by birth or status, or non-Bermudian, long-term residents of Bermuda who are citizens of the British Commonwealth and have been registered to vote annually since 1979. Automatic citizenship applies to children born in Bermuda, except to those without either parent being Bermudian by birth or status.

8. The latest general election, held on 28 July 2003, brought victory to the Progressive Labour Party (PLP), which now occupies 22 seats in the House of Assembly. The United Bermuda Party (UBP) occupies the remaining 14 seats. This victory left PLP in power for a second term since it had first won election in 1998. The latest election saw a very high turnout of voters with 39,250 or 99.1 per cent of the eligible population participating. In addition, a record number of three candidates were running independently or on behalf of smaller parties.[3]

9. Two days after the elections and the Progressive Labour Party's return to power, 11 newly elected PLP Members of Parliament refused to serve under the former Prime Minister and said they wanted to use the opportunity under the Constitution to exercise their right as MPs to choose the Prime Minister. Under the Constitution, the Governor must select as Prime Minister the member of the House of Assembly who commands the support of the majority of members, namely, at least 19. Such a majority could not be realized with 11 of the 22 members of PLP against the candidature of the former Prime Minister. As a result of the crisis, the former leader of PLP resigned. The new Prime Minister is Alexandre Scott.[4]

10. The 2003 election was held under the new electoral system for the first time. As was reported in last year's working paper (A/AC.109/2003/13, paras. 12-14), the Boundaries Commission, which had been working since 2001, suggested changes in the mapping of the electoral constituencies in the Territory. The new system replaced 20 unequal dual-seat constituencies with 36 equally sized constituencies that send one person each to the House of Assembly. The new system also introduced a one-person, one-vote principle. The changes in the Constitution, including the Parliamentary Election Act 2003, were approved by the United Kingdom in June 2003. Although all political parties accepted the new electoral system, the opposition UBP claimed that the public had not been sufficiently informed of the changes.[5]

11. The issue of racial implications of the electoral reform, which had been raised at its earlier stages (A/AC.109/2003/13, para. 13), came to light again at the end of 2003. The Leader of the Opposition wrote an open letter to the Prime Minister in which he expressed the hope that a "code of principles" governing parliamentary behaviour could be worked out to avoid what he believed were PLP attempts to push race to the fore in the election campaign. He also hoped that the 2003 general election would be the last to be contested on racial lines on the island.[6]

12. In May 2002, the Overseas Territories Act came into force after having received royal assent in the United Kingdom. The Act provides British citizenship to the peoples of its Overseas Territories, including Bermudians. That law allows Bermudians to hold British passports and work anywhere in the European Union.

13. As was reported in last year's working paper (A/AC.109/2003/13, para. 11), the constitutional reform in Bermuda had reached a stage where the proposals for changes in the Constitution had been sent by the local Government to the United Kingdom for approval. At the same time, a petition was submitted by the UBP opposition claiming lack of broad-based consultations with the public on the electoral reform. As mentioned above (see para. 10), the changes in the Constitution with respect to electoral laws were approved by the United Kingdom in June 2003. Later in 2003, the public was invited by the Governor to comment on the procedure by which the Bermuda Constitution could be changed. Among the questions to be considered were the following: could parties other than Bermuda and the British Government initiate the constitutional change, does the Government or the whole Parliament set the process in motion, and is the two-thirds majority needed? Other issues included the role of the Senate and the need for a referendum.[7]

14. According to information provided by the administering Power, during the Overseas Territories Consultative Council meeting in December 2003 the British Legal Adviser noted that in Bermuda elections had taken place on the basis of single-member constituencies, following a judicial review brought by those opposed to the change. This, according to the Adviser, showed the importance of seeking the broadest possible local consensus to a constitutional change. Responding to this remark, the Prime Minister of Bermuda stated that the assistance of the Foreign and Commonwealth Office on the Constitution was much appreciated, but those behind the judicial review had received undue United Kingdom acknowledgement: they were not the loyal opposition, but representatives of a small non-governmental organization. According to the Prime Minister, the views of elected representatives should always take precedence. The invitation to the public in Bermuda to offer views on the mechanism for future constitutional change should have been made through the elected Government of Bermuda and not directly to the public from Government House.

III. Budget

15. The Budget of Bermuda for 2004-2005 was presented in February 2004 and will be detailed in next year's working paper.

16. With respect to 2003, according to the Minister of Finance, hurricane Fabian left a mark on the 2003-2004 budget. As a consequence of the storm's damage to infrastructure and public buildings and equipment, the projected current surplus of $25.3 million was reduced by some $10 million in order to cover uninsured costs to

the Government. The actual impact on the tourist sector owing to reduced revenue from hotel occupancy and airport taxes would be estimated at a later stage.

17. The estimated revenue for the fiscal year 2003-2004 was revised upwards to $666 million compared to the original estimate of $650 million. The major sources of revenue are payroll taxes, cruise passenger taxes, customs duties and land taxes. The expenditure in 2003-2004 is estimated at $643.2 million or $18.3 million higher than the last fiscal year.[8]

IV. Hurricane

18. In September 2003, Bermuda was hit by hurricane Fabian, which was the most powerful hurricane to hit the Territory in over 50 years. The hurricane ravaged Bermuda, causing massive damage to residential and commercial buildings, overhead power and telecommunication lines, infrastructure, foreshore and vegetation. According to Government estimates, the damage would be $160 million to $180 million. In particular, Bermuda's hospitality sector suffered substantial property damage to hotels, restaurants and golf courses. The hotel sector lost, albeit temporarily, some 20 per cent of its capacity. As a result there was a rise in temporary unemployment in this sector. The agricultural sector was also devastated by the hurricane with estimated losses of $2 million to $3 million. Insured losses were estimated at $300 million to $350 million. Although the damage across the Territory was widespread, the lessons learned from the storm confirmed that Bermuda was relatively well prepared for such a disaster. In particular, sturdy stone and concrete construction, which conforms to the British building codes and is unique to many Caribbean islands and the United States of America, proved to have excellent wind resistance. Besides, the sound economic situation, with a considerable revenue surplus and a strong insurance sector, seemed to be able to accommodate the shock.[9]

V. Economy

A. General

19. Bermuda has no natural resources, in the conventional sense, upon which to build a viable economy. It has historically capitalized on its location and scenic beauty and has developed a renowned tourist industry. Financial services, international business and tourism are the main economic sectors and account for the bulk of the Territory's foreign-exchange earnings. The 2000 census statistics have confirmed Bermuda's transition from a two-pillar economy based on tourism and international business to an economy based on offshore financial services with a tourism industry as a support. The public sector plays a large role in Bermuda's economy. More than 13 per cent of the workforce is either directly or indirectly employed by the Government. Manufacturing and agriculture exist on a limited scale and therefore contribute little to the economy of Bermuda. The local manufacturing sector includes printing, fish processing, ship repair and tourist-related crafts, as well as the manufacture of paint. Agricultural activity is constrained by the small amount of land available for farming. Some production of vegetables and citrus fruits is undertaken and flowers are grown for export.

Construction is becoming a more significant sector, employing 6.9 per cent of the labour force, compared to 3.2 per cent in manufacturing. Bermuda imports 90 per cent of its food requirements. Bermuda's openness to the world economy and strong links to the United States economy largely determine its pattern of economic growth.

20. Per capita gross domestic product (GDP) in Bermuda is one of the highest in the world. According to 2003 data from the Organisation for Economic Cooperation and Development (OECD), it reached nearly $61,000. At the same time, Bermuda's high cost of living relegates it to ninth place on the list of countries with the highest purchasing power. According to the Minister of Finance, in 2003 the GDP grew at the rate of 2.5 per cent compared to the 2.0 per cent growth in 2002. At the same time, the average rate of consumer price inflation was 3.2 per cent. The decline in the overall employment level was 0.4 per cent, reflecting the loss of 135 jobs.[10]

B. Financial services

21. Until 2003, foreign banks had not been allowed to operate in Bermuda, creating a quasi-monopoly for local banks in handling lucrative international business operations for offshore clients. There is no central bank in Bermuda. Instead, the Bermuda Monetary Authority (BMA) is the regulatory authority of banks and trust companies. Bermuda is one of the world's leading offshore financial and business centres and the third largest insurance market.

22. In 2003, the Government of Bermuda removed a decades-old rule that Bermudians must own 60 per cent of the capital of companies doing business in the Territory. This opened the way for a deal under which the Bank of Bermuda was purchased by the British HSBC Bank for $1.3 billion. According to the Prime Minister, the acquisition will help Bermuda in several ways. Having the HSBC Bank as a partner can help the Territory in dealing with such challenges as international regulations and revitalizing the tourist industry and will expand the amount of credit available for local businesses. At the same time, the rule limiting foreign ownership in Bermudian business will not be relaxed any further. According to international observers, the sale of the Bank of Bermuda has not undermined confidence in the Territory's financial sector.[11]

23. Bermuda is the world's leading domicile for captive insurance companies set up to insure or reinsure the risk of their parent companies. During the reporting period, the international business sector, including insurance, reinsurance and mutual fund management and administration, continued to dominate the economy. Foreign exchange earnings generated by the wages of professionals working in the industry rose by $49 million to a record total of $541 million in the first six months of 2003. About 13,500 registered companies generated nearly 16 per cent of GDP compared to 14.5 per cent three years ago. According to the Bermuda Monetary Authority (BMA), in 2003 around 60 new captive insurance companies were formed, bringing the total number to 1,157 registered companies.[12]

24. As was reported in previous working papers (A/AC.109/2001/9, paras. 39-41, and A/AC.109/2002/15, para. 24), Bermuda's international financial system has come under scrutiny by OECD. Owing to the fact that Bermuda agreed to bring its practices up to international standards, it was not included on the lists of uncooperative jurisdictions.

25. At present, Bermuda's financial sector is well regulated. The Bermuda Monetary Authority (BMA) has vast powers, including the power to conduct on-site supervisory review for long-term Bermuda insurers. According to the Minister of Finance, the International Monetary Fund (IMF) conducted an assessment of Bermuda's financial services in March 2003. The IMF report indicated the need for further change and enhancement of the supervisory and regulatory processes in the Territory. The Government would continue to meet the challenge of striking a balance between effective regulation and sustaining a competitive business environment. To that end, the Government had resorted to economic diplomacy by establishing a network of advisers in key locations, such as the United States and the United Kingdom.[13]

C. Tourism

26. Bermuda's tourism sector has continued its steady decline that began in the 1980s. The decline is mostly attributed to increased competition from cheaper destinations and the rapid growth of cruise ship tourism as a rival to stopover tourism throughout the Caribbean. The stopover subsection, whose clients tend to spend more money in the Territory, is losing market share to the cruise ship subsection, whose contribution to the economy of the Territory is minimal. In addition, the fact that 80 per cent of stopover visitors are from the United States makes Bermuda vulnerable to economic fluctuations in that country. Travel industry experts pointed out high prices, costly transportation, lack of direct flights from continental Europe and a scarcity of high-end entertainment among the problems facing the sector. The damage caused by hurricane Fabian in September 2003 had additional short-term negative effects on the tourist industry (see para. 18 above).

27. According to the Department of Tourism, airborne tourism to Bermuda fell from 500,000 visitors in 1980 to 256,000 in 2003. That number is 10 per cent lower than in 2002. Cruise ships continued to bring the majority of visitors to Bermuda. A total of 116,821 passengers disembarked from cruise ships. The negative side of the rise in cruise ship arrivals is the often lower hotel occupancy rates, which are offset by the higher expenditures in transport, sightseeing and entertainment. In the future, the Government intends to put emphasis on air tourism.[14]

28. During the reporting period, the Government continued to take steps in order to alleviate the situation and to re-energize the tourist sector. The Government continued to undertake an active promotional campaign in the United States and the United Kingdom. New air service was introduced from London, Philadelphia, Fort Lauderdale, Orlando, Baltimore, Chicago, Boston and New York. The Jetblue airline became the second budget airline to the Territory. British Airways added a fifth weekly flight to the Territory, boosting its capacity by 14 per cent. The Government was also working with several British tourist operators, aiming to boost the number of visitors from the United Kingdom by 5,000 in 2004. Specifically targeted are luxury operators attracting visitors with an income of at least £60,000 a year. To improve the image of Bermuda in the British market, the Government will launch a £500,000 consumer advertising campaign.[15]

D. Construction

29. The construction industry of Bermuda benefits from both private and public sector investment. During the reporting period, this tendency continued. The first three quarters of 2003 showed strong performance with more than $120 million worth of work in place.

30. According to the *Quarterly Bulletin of Statistics*, new projects worth more than $119 million were started during the first nine months of 2003, compared to $149 million in the same period in 2002. Residential construction continued to be the largest contributor to the industry with $51.6 million worth of completed construction through the first nine months of the year compared to $61.3 million in the first nine months of 2002. Commercial buildings have accounted for as little as $50.5 million during the same period. This is in contrast to the years 2000 and 2001, when commercial building led the way with $113.8 million worth of construction compared to $83.3 million of residential construction over the two-year period.

31. Tourism-related construction accounted for just $3.4 million, which is a noticeable change from the construction boom related to the Hotel Concessions Act that saw $15.6 million worth of work completed in the same period in 2002 and $18.2 million in 2001. However, major renovations and repairs necessitated by damage from hurricane Fabian to hotels, homes and commercial properties are likely to show higher performance of the industry for the fourth quarter of 2003.[16]

32. Despite the strength in the construction industry, there is a problem with housing in the Territory. The construction of new homes is unable to keep pace with the need for housing. Besides, the price of homes is going up steadily, leaving part of the population in a disadvantaged position. The proliferation of international business contributes to the growing demand for housing. The price of an average house rose by 30 per cent in the past three years and is now $850,000, which is 17 times the average annual income. According to the Department of Statistics, in 2000 home ownership among black Bermudians, who make up 60 per cent of the population, was only 49 per cent, compared to 62 per cent among the white population.[17]

E. Transport and communications

33. Bermuda has a network of about 225 kilometres of paved public roads and another 400 kilometres of private roads. The number of cars licensed to operate on Bermuda's roads has increased by 70 per cent since 1980. During 2002, the Government discussed reforms on the Motor Car Act, such as increasing the sizes of vehicles allowed, changes in the purchase of vehicle regulations and driving licence system improvements. The bill was passed in June 2002.[18]

34. Airport services are reported to have improved considerably in recent years. There are regular and well-established services between Bermuda and the United States and to the United Kingdom. Contrary to the popular assumption, there are no scheduled air or sea services between Bermuda and the Caribbean, which means that all imports and visitors to Bermuda from the Caribbean must come via the United States or Canada. Consequently, all visitors must have appropriate visas to come via those countries.[19]

35. The Bermuda International Airport was designated as the "Number One Airport in North America" by the Global Monitor 2002 and 2003 surveys. The Bermuda Airport was affected by hurricane Fabian, which caused an estimated $6.5 million in damage to airport buildings and facilities.[20]

VI. Military issues

36. As reported in previous working papers (A/AC.109/2000/13, paras. 17-21; A/AC.109/2002/15, paras. 35 and 36; and A/AC.109/2002/13, paras. 40 and 41), after long confrontation and negotiations with the former occupants of the military base in the Territory, in 2002 the Government of Bermuda agreed to receive $11 million from the United States for the maintenance of Longbird Bridge and for the clean-up as a final settlement. However, environmental concerns remain under discussion in the Territory.

37. During the period under review, the fate of the former bases remained undecided. There are two main options under consideration, namely, to use the 230 acres of land for the construction of much-needed housing, or to turn the base into a museum and a tourist attraction. Bermuda's military legacy includes 100 forts at 70 sites, as well as one of the world's largest and most varied collections of British guns dating from the early seventeenth to the twentieth century. Some of the oldest objects were designated a world heritage by the United Nations Educational, Scientific and Cultural Organization (UNESCO).[21]

VII. Social conditions

A. General

38. As was reported in last year's working paper (A/AC.109/2003/13, paras. 42 and 43), while Bermuda's GDP is among the highest in the world, redressing inequalities in wealth on the island has been a priority for the current Government. According to the 2000 census, income inequalities based on race, gender and nationality have persisted.

B. Labour

39. With near-full employment and full pension coverage for Bermudians, most labour issues concern the quality of work available and the effect of foreign workers on the Bermuda labour market. As was reported in last year's working paper (A/AC.109/2003/13, para. 44), in 2001 the Government set a new policy that limits work permits for non-key personnel at Bermuda-based companies to six or nine years. During the period under review, the new policy that will start to affect companies in 2007 and onward, continued to generate discussion. In particular, the definition of non-key and key employees appears to be open to interpretation. The policy might also adversely affect the possibilities of career development for young and mid-level professionals.[22]

C. Education

40. Education in Bermuda is compulsory for all children from 5 to 16 years of age and is free in government schools. The literacy rate is high: 98 per cent of all males and 99 per cent of females 15 years of age and over can read and write. There are 39 State schools — 30 primary, 5 middle, 2 secondary and 2 special schools. There are some private schools as well. There are no degree-conferring universities in Bermuda. The Government awards a number of scholarships each year to young Bermudians accepted at universities in the United States, Canada and the United Kingdom. Scholarships are also awarded by local banks, principal law firms and Bermuda-based international companies. Under the Government's National Education Guarantee Scheme, begun in 1994, no Bermudian student with university potential is denied an opportunity for further education owing to a lack of funds.

41. Bermuda considers the high level of education of its inhabitants to be a major component of its comparative advantage relative to other offshore centres. According to the 2000 census, Bermuda residents are better educated than in 1991, with 20 per cent of residents holding university degrees. The census also revealed a serious disparity between white students going to private schools (three quarters) and the black students attending the government educational system.

D. Public health

42. Medical care is provided by private practitioners and three government health clinics. Fees are charged for hospital care and medical insurance is compulsory for all workers. A hospital levy covers the cost of services rendered by the hospitals to children under 16 years of age. Indigent persons over 65 years of age pay 20 per cent of hospital costs. According to the Health Insurance Association of Bermuda, the cost of health care has increased 100 per cent over the past decade owing to greater technology, an ageing population and more demanding patients.

43. At the end of 2002, doctors and health insurers reached an agreement for a new fee coding system. That agreement ends a dispute between insurers and doctors about how much the insurance should cover and on the methods of payment.[23]

44. According to *The Economist*, Bermuda ranks sixth in the world for the incidence of AIDS.

45. According to the survey conducted in 2003, two thirds of Bermudians believe that the Territory's health care is either good or excellent, and one third considers it to be fair.[24]

E. Crime

46. Local press reports during 2003 recorded various criminal activities, including violent and drug-related crimes. According to the Home Affairs Minister, Bermuda took steps to strengthen its police services in order to deal with an upsurge of crime in the Territory. The size of the police force would be increased by 11 officers to a total of 450 policemen. In November 2003, the Police Commissioner reported that during the past year the police had made 1,300 seizures of drugs with a street value of $44 million and 800 arrests. During the reporting period, the Government

announced a gun amnesty that, by December 2003, had brought in around 20 items of illegal weapons, including an M-72 light anti-tank weapon rocket-launcher casing, a 0.32-calibre Smith and Wesson revolver, a 0.25-calibre handgun and 179 rounds of assorted ammunition.

47. The Bermuda maximum security prison with a total capacity of 208 prisoners is overcrowded. At the end of 2003, the Home Affairs Minister took a decision to move a number of prisoners to a different facility bringing the prison population in the main prison below the 200 mark.[25]

VIII. Relations with international organizations/arrangements

48. As was reported previously (A/AC.109/2002/15, para. 63), Bermuda has observer status in the Caribbean Community (CARICOM) and Common Market. Recently, it wanted to become an associate member of CARICOM. In 2002, the British Government approved the decision on condition that it would not interfere with external relations, defence or security. According to press reports, the Prime Minister said, "We have long desired to strengthen links between Bermuda and the islands of the Caribbean. We already have formal and informal links and share many similarities with the Caribbean".[26] However, the opposition UBP opposed the stance because of the economic implications of becoming a full member of CARICOM. The UBP leader pointed out that Bermuda had cultural and social ties with the Caribbean and they were good links to have; Bermudians did not need CARICOM to strengthen those ties. He said that Bermuda's interests were more with the United States and the European Union and less with the Caribbean. The debate will move to Bermuda's Parliament when it discusses the issue in 2003.

49. In July 2003, Bermuda formally joined the Caribbean Community as an associate (non-voting) member. Associate membership will stimulate direct trade between Bermuda and Caribbean countries. However, Bermuda's associate membership specifically excludes the free movement of Caribbean nationals to Bermuda, and Bermuda will not join the Caribbean Free Trade Association (CARIFTA) or the Free Trade Area of the Americas (FTAA). Membership of the Caribbean Community will cost Bermuda about $90,000 a year.[27]

IX. Future political status of the Territory

50. The discussion of the future status of Bermuda during the reporting period revolved around the degree of self-government under the Constitution and the responsibility of the ruling party for the decision on the change of status of the Territory. At present, Bermuda enjoys a wider degree of self-government than other British Territories. For example, under the Bermuda Constitution the responsibility for the financial service industry, unlike in other British Territories, lies with the elected Government. At the same time, the role of the Governor and the extent of United Kingdom involvement in the local affairs remains an issue under discussion. During the meeting of the Overseas Territories Consultative Council in December 2003, the Prime Minister of the Territory acknowledged that the "Bermuda Model" had much to recommend it, but it was not problem-free. He considered that the reference to good government, in the congratulatory letter on his appointment from the Parliamentary Under Secretary of State, had taken on a new meaning and led

him to question who was really in charge. He had been surprised to learn that in some Territories Governors still chaired the Executive Council. According to the Prime Minister, Governors had no place in a forum of elected representatives. For the same reason, he had argued strongly against the presence of Governors at the Overseas Territories Consultative Council meeting, as had his predecessor, but they were present. His colleagues should know that the Governor still had more power than Bermudians would like.

51. Another incident that stirred the discussion of the United Kingdom's role in the Territory was the appointment of the new Chief Justice. At the end of 2003, the United Kingdom appointed an English Chief Justice recommended by the Governor of Bermuda rather than a Bermudian candidate supported by the Prime Minister of Bermuda. The Prime Minister took a public stand on the issue, saying that when the United Kingdom ignored the views of the elected Government, that showed that there was no real partnership between London and the Territory. The opposition United Bermuda Party supported the Governor's candidate.[28] Referring to the problem of appointing a new Chief Justice in Bermuda during the Overseas Territories Consultative Council meeting in December 2003, the Prime Minister said that for the past 35 years the Prime Minister's advice had been heeded, but not on that occasion. Bermuda wanted real consultation, otherwise the partnership was hollow. The Prime Minister turned to the issue of the status of the Territory, saying that "no one in Bermuda wanted independence unless pushed: independence was an aspiration, but not too fast". The way that the relationship was being managed did not put the Prime Minister of Bermuda in charge as might be expected and, unless he was mistaken, it seemed that the United Kingdom wanted to "claw back over".[29]

52. The discussion of the independence option is not new for Bermuda. The Progressive Labour Party (PLP), which first came to power in 1998 and was returned to office by the July 2003 elections, advocated independence as a distant goal in its party programme. It is the position of the PLP leadership that by electing the party to power, the people of Bermuda gave their support to the PLP programme as a whole, including the transition to independence. The opposition UBP Party, at the same time, insists that a referendum should be taken on such an important question. The former Prime Minister maintained that PLP would not move towards independence during the Party's first term in office.

53. During the Overseas Territories Consultative Council meeting in December 2003, the Parliamentary Under Secretary stated that the United Kingdom's position on independence remained as set out in the White Paper, namely, the Overseas Territories were free to pursue it should they so wish. He also said that the "Bermuda model" was a pre-independence constitution. In response, the Prime Minister of Bermuda noted that he had never heard Bermuda's Constitution described as a pre-independence constitution before. He disagreed with the United Kingdom Minister about the idea of a referendum for proposed change. It had always been his party's position that independence should come about after an election, not a referendum. According to the Prime Minister, the United Kingdom would have to respect the local Government of the day not a minority group which might have money but no electoral support.[29]

54. At the end of 2003, following the controversy surrounding the appointment of the Chief Justice, the issue of independence was revived. In December 2003, the Prime Minister remarked that the United Kingdom's decision concerning the Chief

Justice had not brought the question of independence as a priority agenda of his Government. However, at the beginning of 2004, independence became an issue of discussion in the press. The Prime Minister called for a wide debate. The need to start the process of examining the issue of independence seriously received support from the leaders of the major parties.[30]

A. Position of the administering Power

55. In his statement at the 2nd meeting of the Fourth Committee, on 6 October 2003, at the fifty-eighth session of the General Assembly (see A/C.4/58/SR.2), the representative of the United Kingdom said that his Government welcomed the opportunity, as an administering Power, to bring the Committee's attention to a number of significant developments that had taken place during the year. Following the adoption in 2002 of the British Overseas Territories Act, which granted all citizens of those Territories full British citizenship, the right of abode in the United Kingdom and freedom of movement within the European Union, over 14,000 passports had been issued by August 2003. As for environmental management in the Overseas Territories, his Government was working closely with the Territories in order to fulfil the commitments it had entered into under multilateral agreements and to support the efforts of the Territories themselves to protect and improve their environment.

56. With respect to the constitutional reviews, discussions were under way in the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat and the Turks and Caicos Islands. The authorities of Anguilla had set up a committee to canvas views from the population at large, and a locally appointed review commission was expected to be established shortly in the British Virgin Islands. Talks with St. Helena had also started and were the furthest advanced, whereas discussions with Gibraltar had yet to commence. In terms of the Committee's specific interests, two years into the United Nations Second International Decade for the Eradication of Colonialism, perhaps the most significant development had been the decolonization seminar which had been held in Anguilla from 20 to 22 May 2003, since it was the first time that the seminar had been held in a British Non-Self-Governing Territory. The choice of venue and the focus of the seminar had meant that several chief ministers and their equivalents, as well as opposition leaders and civil society representatives, had been able to attend. The representative of the United Kingdom said that the seminar had shown the extent to which many of the British Overseas Territories had dynamic and advanced economies, which already benefited from a high degree of self-government.

57. As seen from London, the representative of the United Kingdom said his Government had the impression that there was no strong desire in its Territories to choose the path of independence, even though his Government had made it clear that it would give every encouragement if they chose to do so, where independence was an option. The key, therefore, as long as the Territories chose to retain their link with the United Kingdom, would be to try to reconcile their desire for ever-greater autonomy and self-government with the United Kingdom's responsibility to ensure good governance, protect the impartiality of the public service and the independence of the judiciary, and to ensure compliance with relevant international obligations.

58. In his closing remarks during the Overseas Territories Consultative Council meeting held in London from 8 to 10 December 2003, referring to the role of the Governors and constitutional reform, the Parliamentary Under Secretary of State said that it was based on the principle of partnership. According to the Under Secretary, the concept of free association advanced by the United Nations Special Committee of 24 would not be inconsistent with that if it meant mutual acceptance by both sides, because the United Kingdom Government had responsibilities to protect. But if it meant, as he sensed some territorial Governments were arguing, that some Territories would draw up their own constitutions free of outside interference, the United Kingdom would not agree with that. The Under Secretary went on to add that his Government valued its relationship with the Territories. It would not wish to force them into independence, although it would respond positively, where that would be an option (i.e., not Gibraltar) if that was the clear and constitutionally expressed wish of the people. The United Kingdom respected the fact that for some Territories that might be the long-term objective. He stressed, however, that while the Territories retained a link with the United Kingdom, their governance should be in partnership with it.[31]

B. Consideration by the United Nations

59. On 9 December 2003, the General Assembly adopted resolutions 58/108 A and B without a vote; section III of resolution 58/108 B is specifically devoted to Bermuda.

Notes

[1] The information contained in the present working paper has been derived from published sources, including Internet sites.

[2] *The Royal Gazette*, 12 October 2002.

[3] *The Royal Gazette*, 26 June, 1, 25 and 30 July 2003; http://www.bermuda-online.org/bdagovt.htm.

[4] BBC Monitoring Newsfile, 26 July 2003.

[5] *The Royal Gazette*, 16 May, 5 June, 4 November 2003; BBC News, 23 June 2003.

[6] BBC Monitoring Americas, 4 December 2003.

[7] *The Royal Gazette*, 4 November 2003.

[8] *Bermuda Sun*, 20 February 2004.

[9] www.ananova.com, 5 and 6 September 2003; BBC News, 7 September 2003; http://news.bbc.co.uk, *The Royal Gazette*, 9 September 2003, 20 January 2004; National Underwriter, 22 September 2003; Business Insurance, 29 September and 17 November 2003; *Bermuda Sun*, 20 February 2004.

[10] *Bermuda Sun*, 20 February 2004; *Financial Times*, 9 March 2004.

[11] www.eiu.com; www.bankofbermuda.com; *The Independent*, 29 October 2003; *South China Morning Post*, 3 November 2003; International Money Marketing, November 2003; *Financial Times*, 9 March 2004.

[12] *Financial Times*, 9 March 2004; *Business Insurance*, 15 March 2004.

[13] *Bermuda Sun*, 20 February 2004.

[14] Ibid., 12 December 2003.

[15] *Travel Trade Gazette*, 17 November 2003; *Bermuda Sun*, 9 January 2004.

[16] *The Royal Gazette*, 30 January 2004.

[17] *Financial Times*, 9 March 2004.

[18] *The Royal Gazette*, 17 July 2002.

[19] Bermuda Online, 11 March 2003; http://www.bermuda-online.org/bdagovt.htm; *The Royal Gazette*, 6 February 2003.

[20] Bermuda Online, 11 March 2003, http://bermuda-online.org/airport.htm.

[21] Bermuda Online, 11 March 2003, http://bermuda-online.org/airport.htm, Planet Tark, 12 March 2003, www.planetark.com; *Financial Times*, 9 March 2004; Reuters, 12 March 2004.

[22] *Business Insurance*, 17 November 2003.

[23] *The Royal Gazette*, 3 December 2002.

[24] *Bermuda Sun*, 1 September 2004.

[25] BBC Monitoring America, 13, 25 and 27 November; 9 and 22 December 2003.

[26] *Financial Times*, 22 November 2002.

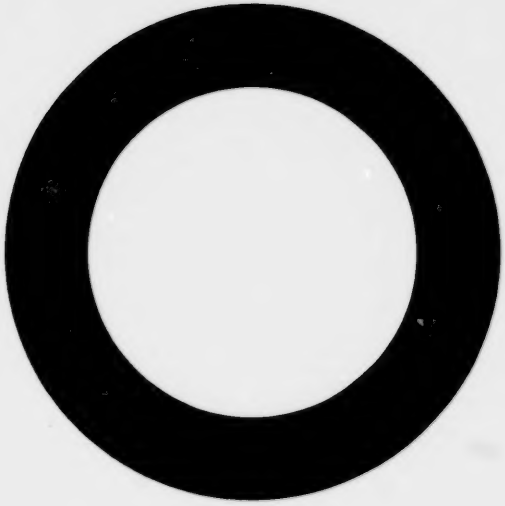
[27] www.bermuda-online.org/bdagovt.htm.

[28] BBC Monitoring Americas, 2 and 20 December 2003.

[29] The Fifth Overseas Territories Consultative Council, *Report of the Proceedings*, 8-10 December 2003.

[30] BBC Monitoring Americas, 23 December 2003; *Bermuda Sun*, 9 and 16 January, 24 February, 2 and 3 March 2004; *The New York Times*, 2 March 2004.

[31] The Fifth Overseas Territories Consultative Council, *Report of the Proceedings*, 8-10 December 2003, annex F, Closing Remarks by Mr. Rammell.



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Cayman Islands

Working paper prepared by the Secretariat

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I. General

1. The Territory of the Cayman Islands[1] is located some 180 miles west of Jamaica and about the same distance south of Cuba. It comprises three islands: Grand Cayman (76 square miles), Cayman Brac (15 square miles) and the adjacent and largely undeveloped Little Cayman (11 square miles).

2. According to the Economics and Statistics Office of the Cayman Islands, the population of the Territory in 2003 was 44,144, which is an increase from 43,004 in 2002.[2] An estimated 25 per cent are of African descent, 20 per cent are of European descent and the remainder are mixed.

II. Constitutional, legal and political issues

3. The Cayman Islands is a Non-Self-Governing Territory (Overseas Territory) under the administration of the United Kingdom of Great Britain and Northern Ireland. The Constitution of 1959 was revised in 1972, 1992 and 1994. Under the Constitution, the Governor, who is appointed for four years by the British monarch, is responsible for external affairs, defence, internal security and public service. The Governor is the Chairman of the Executive Council, which comprises three members appointed by the Governor, namely the Chief Secretary (until 1992, the Administrative Secretary), the Financial Secretary and the Attorney General, and five members elected by the Legislative Assembly. The Executive Council is responsible for the administration of government. The Governor assigns ministerial portfolios to the elected members of the Executive Council. The Legislative Assembly comprises three official members designated in the Constitution and 15 members elected by universal adult suffrage for a period of four years. Since 1991, a Speaker is elected to preside over the Assembly.

4. The Governor of the Cayman Islands, Bruce Dinwiddy, was appointed in May 2002.

5. Until 2000 there were no formal political parties in the Territory and the following loose groupings acted as political organizations: National Team, Democratic Alliance and Team Cayman (see A/AC.109/2003/9, paras. 7-8). Following the defeat of the National Team in the general elections held in 2000, a majority of the Legislative Assembly members formed a political party, the United Democratic Party (UDP), on 5 November 2001. Mr. McKeeva Bush of UDP became the Leader of Government Business. The next election is scheduled for November 2004.

6. The judicial system is based on British common law, certain British statutes and local statute law. There is the Grand Court (with Supreme Court status) and the Summary Court, which includes criminal, civil, family, youth and coroner's court. Appeals lie with the Court of Appeal of the Cayman Islands and, beyond that, with the Privy Council in London.

7. In March 1999, the Government of the United Kingdom issued a White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories". The legislation proposed the extension of British citizenship to the citizens of the Territories; at the same time, it required the Territories to conduct a constitutional review and to amend their local legislation, in particular on human

rights and on the regulation of financial services, to meet international standards. In May 2002, the bill became the British Overseas Territories Act 2002.

8. The Constitutional Review Commission submitted the report of the constitutional modernization review commissioners in May 2002, together with a draft constitution (see A/AC.109/2002/7, paras. 11-14 and A/AC.109/2003/9, paras. 10-19). The draft constitution intended to bring into effect a new or amended constitution prior to the 2004 general election. In February 2003, following informal talks between the Cayman Islands and the United Kingdom, the revised draft constitution and two related draft orders in council were returned to the Territory for further public discussion.[3] The constitutional amendment was passed in June 2003 as a Cayman Islands order in council. The order provided for the formal appointment of the Leader of Government Business as well as the Leader of the Opposition. It also had provisions for the establishment of a boundaries commission that would submit proposals on the creation of 17 single-member constituencies within the six electoral districts to allow for one-person, one-vote in the 2004 elections. The order gave constitutional authority to the Leader of Government and the Leader of the Opposition to appoint one member to the three-person boundaries commission. In addition, the order provided for changing the name of the Executive Council to Cabinet. The order did not, however, accede to the proposal to create the post of chief minister to replace the post of Leader of Government Business and thus make a move towards a ministerial system of government.

9. Since the order initiated implementation of some sections of the Constitution that were needed before the 2004 election, UDP continued to insist on its position to move towards partial implementation of the Constitution first and complete implementation later. The exception to this concerns the bill of rights, which is included in the Constitution, but would not be implemented until 2005 in order to allow time for audits, training and changes in laws that would be impacted by its incorporation.[4]

10. Following the passing of the constitutional amendments in June 2003, the Electoral Boundary Commission was formed. The Commission consisted of three members: one appointed by the Governor, one by the Leader of Government Business and one by the Leader of Opposition. The Commission worked through July and August 2003. It defined, inter alia, the new electoral constituencies, verified the lists of registered voters and conducted public meetings throughout the Territory. The report of the Commission was forwarded to the United Kingdom for comments and recommendations.[5]

11. In December 2003, recommendations of the Boundary Commission were passed by the Legislative Assembly of the Cayman Islands. They have not yet been approved by the United Kingdom, however. The issue of how the electoral districts are to be mapped continues to be a matter of contention between the ruling party and the opposition and, according to press reports, is the reason for the delay in the approval of the proposals by the United Kingdom. As the November 2004 election will be the first to be run on the basis of a two-party system, the mapping of the electoral districts is crucial. The opposition, People's Progressive Movement (PPM), claims that the proposed mapping favours the ruling UDP[6] (see also section VII below).

12. With respect to further amendments to the Constitution, the Foreign and Commonwealth Office of the United Kingdom announced, at the beginning of 2004,

that the constitutional talks that had been scheduled to be held in London on 5 and 6 February 2004 between representatives of the United Kingdom and the Cayman Islands would not take place at that time. The announcement followed the withdrawal of the UDP delegation from the talks. The United Kingdom Government hoped UDP would reconsider its decision not to participate further in the constitutional review process before the November 2004 elections and that talks could be rescheduled in order that agreement could be reached on a constitution that had widespread support throughout the Cayman Islands, was acceptable to the United Kingdom Government and was in the interests of the Territory as a whole.[7]

III. Budget

13. At the beginning of 2003, the Financial Secretary presented the outline of a major reform called the financial management initiative. The reform includes a number of changes in the budgetary process, as described below.

14. First, budgets and reports will be strategic and performance oriented, focusing on the outcomes the Government is seeking to achieve and the funds to achieve those outcomes. This approach differs from one of merely focusing on financial inputs.

15. Second, the traditional cash accounting system will be replaced by an accrual one that includes the use of operating statements and balance sheets, and complies with internationally accepted accounting standards.

16. Third, most of the traditional centralized control will be removed, thereby giving civil service managers more freedom and flexibility. In return for the extra authority, managers will be subject to a new system of accountability and will be held directly accountable for the achievement of an annual performance agreement that, in turn, will be part of the budget process.

17. Other components of the reform include changes to the Government's management of its cash and working capital, a greater focus on revenue collection and changes to the Government's borrowing and managing of the public debt. In particular, the latter will involve replacing existing bank loans with bond issues.

18. The first actual budget to be prepared in full accordance with the new reform principles will be the budget for the 2004/05 financial year. The 2003 budget, however, was prepared on the basis of a new format, albeit for a six-month period, January to June 2003.

19. The strategic component of the projected long-term budget goals of the Government include: no new revenue measures; no new borrowing; generating operating surpluses by controlling recurrent expenditure while allowing revenue to increase in line with economic growth; limiting capital expenditure to levels that can be financed by operating surpluses; and building reserves by leaving existing reserves untouched and by committing to allocate any unforecasted revenue to reserves.

20. The operating revenue for the first half of 2003 is projected at 179,472 million United States dollars; the operating expenditure will decrease and become minus $135,130 million, leaving the operating surplus at $44,347 million. The net asset activity will also decrease by $12,460 million; the net borrowing activity will go

down by $5,739 million; and the net balance sheet activity will be decreased by $18,199 million. This will leave the Government with an overall surplus of $26,148 million.[7]

IV. Economic conditions

A. General

21. The Cayman Islands has one of the highest standards of living in the Caribbean. The economy is based on tourism and on the Islands' status since 1966 as an international offshore finance centre. The principal sources of government revenue are import duties, company, bank and trust licence fees, and stamp duties. There is no income tax, company tax or excise duty. Although imports outstrip exports by about 100 to 1, the visible trade gap is more than offset by invisible earnings from the tourism and financial services sectors.

22. After a slowdown in 2001, economic activity improved in the Cayman Islands in 2002, with consumer spending driving industrial production and international trade. The three major indicators of the domestic economy, gross domestic product (GDP), unemployment and inflation, confirm a gradual improvement of the economy. According to the Foreign and Commonwealth Office, the GDP per head is $36,271; the annual growth rate is 4 per cent; and the annual inflation rate is 1.9 per cent. The purchasing power parity of the Cayman Islands economy is $1.27 billion. The major trading partners are the United States of America, the United Kingdom and the Caribbean Community. United Kingdom exports for 2002 were 8.97 million pounds and imports for the same period were 4.8 million pounds.[8]

23. In November 2002, the Government of the Cayman Islands adopted a comprehensive plan entitled "The Cayman Islands: a centre of excellence for the twenty-first century", which covers the period 2003-2005 and aims to refocus the economy and maintain a responsive institutional and legislative framework for such important areas as tourism, e-business, marketing and incentives (see A/AC.109/2003/9, paras. 23-29). The plan took into account the forthcoming tax information exchange agreements with countries members of the Organisation of Economic Cooperation and Development and included provisions for updating the local legislature in accordance with changing international requirements. It also addressed the creation of new corporate products, enhancing product delivery mechanisms and access to business information, developing immigration laws relevant to the needs of the economy, and improving the local investment environment.

B. Agriculture, livestock and fisheries

24. Agricultural activities, although limited by infertile soil, low rainfall and high labour costs, have nearly doubled over the past five or six years, with 10 large farms totalling over 100 acres. Agricultural products include bananas, tomatoes, lettuce, honey, mangoes, citrus fruits, various vegetables and coconuts. Livestock rearing consists of beef cattle, poultry and pigs. Agriculture constitutes 1.4 per cent of the total GDP.

C. Tourism

25. The tourism sector dominates the Caymanian economy, accounting for about 70 per cent of GDP and 75 per cent of foreign currency earnings.

26. According to the Department of Tourism, as at the end of November 2003, a total of 239,924 passengers arrived in the Cayman Islands by air and 1.4 million arrived by cruise ship.

27. In May 2003, the Cayman Islands celebrated the five hundredth anniversary of their discovery.

28. According to the Leader of Government Business,[9] the policy objective for the tourism sector in 2003 was to enhance existing services and create innovative tourist attractions. Measures in that area included port and island-wide landscape beautification programmes, human resources retraining and improvement of customs and immigration services. The Government also strived to increase marketing and incentives for the tourism sector and to explore the possibility of increasing the number of high-income stay-over visitors from Europe. It planned to create incentives for the development of new tourism facilities and the establishment of special areas for five-star boutique hotels.[9]

29. The Government specifically directed its efforts towards raising the number of stay-over visitors. The 2003-2004 budget outlines several new initiatives to that end, including a $1.5 million television advertising campaign that will be mounted on United States national cable networks.

30. Although overall air arrivals for 2003 fell 3 per cent from 2002, the drop was far smaller than the 9.36 per cent fall between 2001 and 2002. The overall figure for 2003 shows a record-breaking number of 1.8 million cruise passengers, representing a 15.5 per cent increase over the final figure for 2002. It is predicted that over 2 million cruise ship passengers will visit the Cayman Islands in 2004. Quincentennial celebrations of the discovery of the Cayman Islands by Columbus contributed to the positive outcome.[10]

31. As part of the Government's programme to make the Cayman Islands more attractive to tourists, a new theme park will be opened in 2004. The construction of the park, tentatively named the Black Pearl Skate Park and Surf, is set on a 38,000-square-foot site. The park will include a world-class skateboard park and surf-wave pool. In the future, the entertainment facility will be enhanced by an aqua park.[11]

D. Financial services

32. The Cayman Islands remain among the top international financial centres (see A/AC.109/2003/9, paras. 41-50). Currently, there are more than 40,000 companies registered in the Cayman Islands, including 600 banks and trust companies. Forty-three of the world's largest banks are present in the Cayman Islands. By December 2003, there were 4,168 mutual funds, of which 87 per cent were locally incorporated. The banking sector employs more than a tenth of the labour force and contributes 15.5 per cent of GDP.

33. During 2003, the financial sector continued to demonstrate strength, the growth being a testament to the fact that customers prefer well-established

domiciles that offer expertise and experience. In particular, the Territory is emerging as a leader in the captive insurance market, following the licensing of 83 new companies. The total number of active captives is now 644, writing $4.98 billion in premiums and reporting $19.35 billion in assets. While the majority of the new captives formed in 2003 have been health care related and emanated from North America, other sources of new business included the Caribbean, the Pacific and Europe, with workers' compensation being the second largest category of insurance, followed by general liability.[12]

34. The European Union savings tax directive, which requires disclosure of financial information in relation to European Union (EU) depositors or the imposition of withholding tax on bank interest paid to EU citizens, was in the middle of tough negotiations between the Governments of the Cayman Islands and the United Kingdom throughout 2003. The Government of the Cayman Islands exerted considerable effort to resist the directive and tried to negotiate certain concessions, such as financing of the Airport expansion project in return for accepting the directive. At the end of 2003, the British Government had given an ultimatum to the Territory to adopt the new directive by 31 January 2004 or face its imposition by the order in council. In February 2004, the Territorial Government agreed to recommend the adoption of the directive to the Legislative Assembly. The opposition party, PPM, abstained from the vote. The Territory will have to enact the appropriate legislation by 30 June 2004 and enter into negotiations with EU member States with a view to concluding bilateral agreements. Implementation of the directive is scheduled for January 2005. It is contingent upon the adoption of the directive by the remaining jurisdictions, namely the dependent Territories of all European countries and five other States, which are supposed to agree on either the exchanging of information or a withholding of tax.[13]

35. During the reporting period, a number of associations in the Cayman Islands joined together to create a new entity, the Cayman Islands Financial Services Association, to add weight to efforts to maintain the jurisdiction's reputation as an international financial services centre. The Cayman Islands-based participants in the Association are the Society of Professional Accountants, the Society of Trust and Estate Practitioners, the Fund Administrators Association, the Bankers Association, the Insurance Managers Association and the Chamber of Commerce. Among the first of a number of tasks that the Association is undertaking is the launch of a web site that is expected to go live next month.[14]

E. Transport and communications

36. The Territory's development as an international business centre is dependent on modern and reliable telecommunications and utility services. Currently, the multinational company, Cable and Wireless, holds an exclusive licence for the local provision of telecommunications services in the Cayman Islands. The Government has been negotiating with Cable and Wireless over liberalization of the telecommunications sector in order to reduce telecommunication costs (see A/AC.109/2003/9, paras. 51-53). Reductions are expected in all major areas, including Internet businesses, thereby improving international competitiveness, allowing businesses to access cutting-edge technology and opening up new business opportunities in a variety of telecommunications-related areas and in e-commerce.

37. In order to liberalize the telecommunications business in the Territory, and foster competition, the Government signed an agreement with Cable and Wireless in June 2003. Under the proposed terms, the liberalization of the industry would go in phases and would become open to full competition by April 2004. Changes would include domestic and international cable and wireless services and rates.[15] In September 2003, the Information and Communications Authority of the Territory announced that it had received more than 20 applications for licences to operate different information technology networks and services. Following the selection, operating licences have been granted to nine companies. These ranged from provision of infrastructure to full service telecommunications.[16]

38. In September 2003, the Government also announced its intention to abolish the monopoly of the Caribbean Utilities Company even though the licence of the company does not expire until 2011. In the future, the Government does not intend to grant new licences on an exclusive basis for the generation or supply of electricity to the public. The announcement was precipitated by the company's decision to increase power tariffs by 3 per cent, which the Government considered unreasonable. The offer by the company to limit the increase by 1.5 per cent was rejected. The company is currently the sole provider of electricity in the Territory, operating 18 generating units and 5 transformers under a 25-year exclusive contract.[17]

39. International air services are provided between Grand Cayman and the United States, Canada, Europe, Jamaica, Honduras and Cuba. Major United States and British airlines operate regularly to and from the Cayman Islands. Domestic airline services and charters operate between the sister islands of the Cayman Islands.

40. Within the framework of negotiations with the United Kingdom on the European Union savings tax directive, the Government of the Territory made an attempt to acquire financial aid for the reconstruction of the airport, which will involve restructuring the buildings, grounds and runways. Preliminary estimates calculate the cost as ranging from $20 million to $50 million.[18]

41. During 2003, United Airlines commenced non-stop service between Chicago and Grand Cayman, marking the first time the airline has flown to the Territory in 10 years. According to the company, the service was re-established as a result of customer demand.[19]

42. The port of George Town is the main gateway for the almost 1 million cruise ships that carry tourists to the islands annually. The Cayman Islands are served by scheduled passenger liners and a number of locally owned or registered vessels that provide cargo services between the Cayman Islands and Miami, Tampa and Jamaica. Following the election in November 2000, the Tourism, Environment and Transportation Minister asked the port authority to review the George Town port development project.

43. Work began in September 2003 on the new terminal cruise facility in the Fort George port. The new terminal will stretch over 2 3/4 acres and will include a 200-foot pier. Funding for the project was provided through an agreement between the Government of the Territory and the Florida Caribbean Cruise Association.[20]

44. In conformity with the Government's policy to create the appropriate infrastructure for the overall economic development of the Territory, the Government formed a new Committee in April 2003 to focus on the transportation

system in the Cayman Islands under the 2025 National Road Plan. The plan is expected to include long-term measures to support access, mobility and economic development in the Territory as well as to encourage the protection of neighbourhoods and the environment.[21]

V. Social conditions

A. Human rights and immigration

45. The Territory is subject to several major human rights conventions to which the administering Power has acceded, although it has been the only United Kingdom overseas territory without a bill of rights (see A/AC.109/2002/7, para. 49 and A/AC.109/2003/9, paras. 61-63). The draft Constitution presented for approval by the United Kingdom in 2003 includes a bill of rights, which will be scheduled for implementation when the appropriate legislation is in place (see para. 9 above).

46. During the reporting period, the issue of immigration was an important question related to human rights in the Territory. At the end of 2003, the Cabinet (formerly called the Executive Council, headed by the Governor) granted citizenship status to a considerable number of persons who would not have qualified for it under the immigration law, including some who had been denied the status previously. The action generated strong criticism in the Territory. According to some estimates, approximately 4,000 persons in 2003 might receive or have already received status. With an estimated average of 1.5 dependants receiving status, in addition to those receiving it by grant, the Cayman Islands could gain approximately 10,000 new Caymanians as a result of actions taken by the Government during 2003. The legality of granting the status to approximately 2,900 persons was questioned by the 80-member Cayman Bar Association, which was considering mounting a legal challenge against the Cabinet. Under the Cayman Islands immigration law, the Cabinet is allowed to grant the status in exceptional cases, and over the years has exercised that authority on very few occasions. Critics suggested that the recent grants of status by the Cabinet were made in an attempt to influence the forthcoming 2004 election.[22]

B. Labour

47. According to the labour force survey released in May 2003, the labour force of the Territory comprises 29,905 people with 28,827 actually employed. This represents an unemployment rate of 3.6 per cent compared to 5.4 per cent in 2002. The number of working Caymanians is 13,973, or around 48.5 per cent of the total. This number has increased from 2001, when 11,844 employed Caymanians were recorded. The rest of the labour force is composed of work permit holders. Six thousand work permit holders are employed in the Territory for a period of more than 10 years. The workforce includes nationals of 78 countries, with the greatest portion coming from Jamaica, the United States, Canada and the United Kingdom.[2]

48. In November 2003, the Government passed the immigration bill limiting foreign workers in the Territory to a stay of seven years. According to the supporters of the new legislature, the aim of the bill is to stop foreign workers who enter the Territory with a one- or two-year work permit from staying for a "long or indefinite

time". Critics consider that the limitation would be especially beneficial for young local lawyers seeking to enter the profession as it would reduce competition from the outside. The new law envisages some exemptions from the seven-year limit for foreign lawyers.[23]

C. Education

49. Education is compulsory for all resident children who are between 4 years, 9 months, and 16 years of age. The Government is directly responsible for education within that age group. Two public institutions and one private school provide tertiary education. The Community College of the Cayman Islands is owned by the Government but is independently administered. The Cayman Islands Law School is also Government-owned, while the College of the Cayman Islands is private.

50. The Government operates six primary schools, one middle school, two high schools and one alternative education centre on Grand Cayman, as well as three primary schools and one high school, which incorporates the middle school, on Cayman Brac. Tuition is free for Caymanians at those schools, but an annual book rental fee of 100 to 150 Cayman Islands dollars per student is charged. In addition, 10 private schools provide primary and/or secondary education. All private schools are monitored by the Education Department and receive grants from the Government.

51. The improvement of the standard of education is one of the Government's key policy initiatives in 2003/04. Key policy actions that were provided for in the 2003 budget included scholarships and bursaries to support local and international tertiary study, site preparation work for a new primary school at Spotts and planning and design work for a new secondary school in Grand Cayman. According to the strategic policy statement for the financial year 2003/04, the Government plans to implement measures to ensure that 95 per cent of school leavers meet expected educational standards, that 90 per cent of all adults have basic language and numerical skills and that the number of adults undertaking vocational training increases.

52. The Government is striving to advance professional education in the Territory. In 2003, the University of Portsmouth (United Kingdom) started a one-year Masters programme in human resources management in the Cayman Islands. The graduates will be awarded membership in the Chartered Institute of Personnel and Development, as well as a postgraduate certificate in professional management. The first group of 12 graduates will be followed by a second group of 20 students drawn from both the public and private sectors.[24]

D. Public health

53. The Health Services Department is responsible for the provision of all government health care, including public health services. In addition to general medical care, a wide range of specialist services is available locally. The Government has a contractual arrangement with the Baptist Hospital in Miami for tertiary care services. According to the administering Power, contraceptive services are provided free of charge, in addition to free antenatal service, which is already being provided for all residents irrespective of nationality. The Health Practitioners Board has responsibility for the registration of private practitioners. In July 2002, the Health Services Department became a statutory authority. There is a 124-bed hospital in George Town. The facility

includes a state-of-the-art, fully staffed accident and emergency room. There is also an 18-bed hospital on Cayman Brac and several district health centres and clinics. In 2000, there were 84 registered doctors and 14 dentists in the Cayman Islands.

54. The Government has put considerable effort into its public outreach programme, especially targeted at the younger generation, on health-related issues. The National Drug Council of the Cayman Islands maintains a user-friendly web site providing statistics and advice as well as a schedule of events.[25]

E. Crime and public safety

55. The Royal Cayman Islands Police Force comprises 295 officers and 40 support staff. It has a shortfall of Caymanian recruits and has officers seconded by the United Kingdom. Officers are also recruited from Jamaica, Belize, Barbados, Canada, Nicaragua, Trinidad and Tobago, Honduras, the Bahamas, Nigeria and the United States.

56. The strategic policy statement for the financial year 2003/04 outlines the following specific goals to ensure the safety and security of the Cayman Islands: an efficient and fair legal and judicial system; reduction in the levels of petty and serious crime; reduction in the rate of reoffending by convicted offenders; secure and humane custody of offenders with custodial sentences; and maintenance of appropriate border security and protection.

57. According to press reports, the number of crimes in the Territory increased during 2003. Most crimes were connected with car thefts or car accidents or were drug related. While there were 499 accidents reported and prosecuted in the Territory in 2002, the number increased to 615 in 2003. With a population of nearly 45,000, the number of cars registered in the Cayman Islands has reached 28,400 which, according to the police, has resulted in a rise in the number of accidents.[26]

58. In cooperation with the business community, the Government continued to promote drug awareness and education in Cayman schools through the Abuse Resistance Education programme. The local police introduced the programme in 2000 in accordance with the national strategic plan for drug abuse prevention, which is coordinated by the National Drug Council. The programme teaches young people to resist drugs and helps them to develop positive life skills. The community involvement team of the Caribbean Utilities Company continued to honour its five-year pledge with the programme by donating money.[27]

VI. Relations with international organizations

59. The Cayman Islands, which had been an observer with the Caribbean Community, was approved for associate member status in February 2002 (see A/AC.109/2002/7, paras. 75 and 76).

VII. Future political status of the Territory

60. The issues of contention between the Territory and the United Kingdom with respect to future political status relate to some of the provisions in the Constitution,

the degree of self-government and control over local affairs by elected officials, the role of the Governor, the impact of compliance by the Territory with the United Kingdom's international obligations, and the participation of the Territory in those international affairs that affect its interests.

61. According to information provided by the administering Power, during the meeting of the Overseas Territories Consultative Council in London in December 2003, the Leader of Government Business, responding to the statement of position issued by the Parliamentary Under-Secretary of State, thanked the Under-Secretary for his straightforwardness, noted that all Territory Governments shared the objective of delivering high standards of governance and recognized the obligations arising out of the relationship with the United Kingdom. According to the Leader of Government Business, no Territory wanted independence — although the situation might change. All Territories, however, also had a strong desire for greater self-determination. The level of self-determination given to some Territories, but not to others, fostered a perception of discrimination. All United Kingdom Overseas Territories aspired to full internal self-government based on the Bermuda model. The Territories looked to the United Kingdom for a clear, more just and balanced relationship and expected the administering Power to fulfil its commitment to deliver on constitutional advancement.

62. The Leader of Government Business said that the Governors had a legitimate role to play not only by acting as a channel to the United Kingdom, but also by offering advice. However, he maintained that Governors should not override democratically elected leaders or preside over the Cabinet. The Leader of Government Business acknowledged that the Territories recognized the need for global standards in areas such as aviation and maritime matters, but there were no clear standards for the financial services sector. The Territories needed to determine their own policies on fiscal matters. While the Territories accepted the need to act with the United Kingdom against terrorism, such cooperation should not be used as a pretext to intrude upon domestic matters.

63. With respect to the Constitutional Review Commission, the Leader of Government Business proposed that the representatives of the Territories be invited to prepare a comparative analysis of the constitutional position in each Overseas Territory as the basis for constitutional modernization. He admitted that the Cayman Islands were a long way behind other Territories in this respect. He recalled that he had asked the United Kingdom in 2002 to expedite the process of constitutional change in the Cayman Islands. He observed that the civil society representatives in the Cayman Islands were seeking a far more advanced constitution than anything being considered by his Government. He further argued that the local Commission had been partial to the Opposition which, in his opinion, had tried to block constitutional development in the Cayman Islands until after the election. In this context, the United Kingdom's insistence on broad consensus was slowing the pace of change. He considered that there was a strong case for implementing certain changes immediately, such as changing his title to Chief Minister, and then introducing other changes, namely moving to single-member constituencies. However, he believed that bringing a new human rights chapter into effect could be implemented more slowly. According to the Leader of Government Business, the opposition argued that he only wanted to be Chief Minister, but the fact was that there was a need to address the shift to single-member constituencies. The civil society groups, however, wanted faster development towards a Bermuda-style

constitution. He noted that the Leader of the Opposition had been given constitutional status, but that he had remained Leader of Government Business rather than Chief Minister.

64. With respect to self-determination, the Leader of Government Business hoped that the United Kingdom would not exclude free association as an option for self-determination.

VIII. Position of the administering Power

65. In his statement at the second meeting of the Fourth Committee of the General Assembly, on 6 October 2003 (see A/C.4/58/SR.2), the representative of the United Kingdom said that his Government welcomed the opportunity, as an administering Power, to bring the Committee's attention to a number of significant developments that had taken place during the year. Following the adoption in 2002 of the British Overseas Territories Act, which granted all citizens of those Territories full British citizenship, the right of abode in the United Kingdom and freedom of movement within the European Union, over 14,000 passports had been issued by August 2003. As for environmental management in the Overseas Territories, the representative said that his Government was working closely with the Territories to fulfil the commitments it had entered into under multilateral agreements and to support the efforts of the Territories themselves to protect and improve their environment.

66. With respect to the constitutional reviews, discussions were under way in the Cayman Islands, the Falkland Islands, Gibraltar, Montserrat and the Turks and Caicos Islands. The authorities of Anguilla had set up a committee to canvas views from the population at large and a locally appointed review commission was expected to be established shortly in the British Virgin Islands. Talks with Saint Helena have also started and are the furthest advanced, whereas discussions with Gibraltar have yet to commence. In terms of the Committee's specific interests, two years into the Second International Decade for the Eradication of Colonialism, perhaps the most significant development had been the decolonization seminar that had been held in Anguilla, from 20 to 22 May 2003, since it was the first time that the seminar had been held in a British Non-Self-Governing Territory. The choice of venue and the focus of the seminar had meant that several chief ministers and their equivalents, as well as opposition leaders and civil society representatives, had been able to attend. The representative of the United Kingdom said that the seminar had shown the extent to which many of the British Overseas Territories had dynamic and advanced economies that already benefited from a high degree of self-government.

67. The representative said that the United Kingdom had the impression that there was no strong desire in its Territories to choose the path of independence, even though his Government had made it clear that it would give encouragement where independence were an option. The key, therefore, as long as the Territories chose to retain their link with the United Kingdom, would be to try to reconcile their desire for greater autonomy and self-government with the United Kingdom's responsibility to ensure good governance, to protect the impartiality of the public service and the independence of the judiciary, and to ensure compliance with relevant international obligations.

68. In his closing remarks during the Fifth Overseas Territories Consultative Council, convened in London from 8 to 10 December 2003, the Parliamentary

Under-Secretary of State for Foreign and Commonwealth Affairs said that the role of governors vis-à-vis constitutional reform was based on the principle of partnership. According to the Under-Secretary of State, the concept of free association advanced by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples would not be inconsistent with that position, if it meant mutual acceptance by both sides, because the United Kingdom Government had responsibilities to protect. But if it meant, as he sensed to be the argument of some Territory Governments, that some territories would draw their own constitutions free of outside interference, the United Kingdom would not agree with that. The Under-Secretary went on to add that his Government valued its relationship with the Territories. It would not wish to force them into independence, although it would respond positively wherever the option was possible and was the clear and constitutionally expressed wish of the people. The United Kingdom respected the fact that for some Territories independence might be the long-term objective. He stressed, however, that while the Territories retained a link with the United Kingdom, their governance should be in partnership with it.[28]

IX. Consideration by the General Assembly

69. On 9 December 2003, the General Assembly adopted, without a vote, resolution 58/108 A-B, section V of which is devoted to the Cayman Islands.

Notes

[1] The present working paper is based on information provided by the administering Power under Article 73 *e* of the Charter of the United Nations, as well as from published sources.

[2] www.gov.ky.

[3] Cayman Islands Government Information Services (GIS), 13 February 2003.

[4] http://www.caymannetnews.com; www.legislation.hmso.gov.uk.

[5] www.electionsoffice.ky.

[6] http://www.caymannetnews.com/2004/01/565/constituencies.shtml and http://www.caymannetnews.com/2003/12/559/editorial.shtml.

[7] www.fco.gov.uk; M2 Presswire, 4 February 2004.

[8] www.fco.uk, CIA Fact book, http://www.cia.gov/cia.

[9] The Cayman Islands: A Centre of Excellence for the Twenty-first Century, 8 November 2002.

[10] http://www.caymannetnews.com/2004/01/579/tourism.shtml.

[11] http://www.caymannetnews.com/2003/12/560/themepark.shtml.

[12] http://www.caymannetnews.com/2004/01/580/insurance.shtml.

[13] www.caymannetnews.com/2004/01/564/uk.shtml; and International Money Marketing, 9 February 2004.

[14] Private Banker International. London: Jan 31, 2004.

[15] Press Release, June 2003, www.gov.ky.

[16] www.icta.ky; Caribbean Insight, 12 September 2003, vol. 26, No. 31.

[17] Caribbean Insight, 26 September 2003, vol. 26, No. 33.

[18] www.caymannetnews.com/2004/01/564/uk.shtml.

[19] www.caymannetnews.com/2003/12/559/united.shtml.

[20] Caribbean Insight, 5 September 2003, vol. 26, No. 30.

[21] Cayman Islands Government Information Services (GIS), 23 April 2003.

[22] www.caymannetnews.com/2003/12/561/status.shtml, www.caymannetnews.com/2004/01/571/status.shtml, and www.caymannetnews.com/2004/01/568/status.shtml.

[23] The Lawyer, 3 November 2003.

[24] Cayman Islands Government Information Services (GIS), 22 January 2004.

[25] www.ndccayman.com.ky.

[26] www.caymannetnews.com/2004/01/580/crashes.shtml.

[27] www.caymannetnews.com/2004/01/564/dare.shtml.

[28] Report of the proceedings of the Fifth Overseas Territories Consultative Council, 8-10 December 2003, annex F, closing remarks by Mr. Rammell.